

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**MICHAEL PRINCE, JR.**

**PLAINTIFF**

**v.**

**CASE NUMBER: 4:13cv165-SA-JMV**

**WASHINGTON COUNTY, MISSISSIPPI,  
SHERIFF MILTON GASTON, in his Official Capacity,  
LIEUTENANT MACK WHITE,  
in his Individual and Official Capacity,  
DEPUTY MARVIN MARSHALL,  
in his Individual and Official Capacity, and  
JOHN DOES 1-10**

**DEFENDANTS**

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**AFFIDAVIT OF J. MICHAEL DUNCAN, ESQ.**

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J. MICHAEL DUNCAN, first being duly sworn upon oath, states:

- (1) I am adult resident of the State of Mississippi.
- (2) I am over the age of 21.
- (3) I am a duly licensed and practicing attorney, licensed to practice in each of the State and Federal Courts in the State of Mississippi.
- (4) I am familiar with the facts and particulars of the above-referenced case.
- (5) I am co-counsel in the above-referenced case. It should be noted that at all time relevant I was a non-ECF participant in the Northern District of Mississippi.
- (6) On or about February 3, 2014, Affiant was contacted by co-counsel, Derek L. Hall, in regards to *Defendant's Motion to Deem Requests for Admission Admitted*, which Mr. Hall had received via ECF notification.
- (7) I expressed to Mr. Hall I could only recall receiving Defendant's *Answer and Defense, Defendant's Motion to Dismiss* and documentation relating to an upcoming Deposition. I further explained I was out of the office, but would review the client file upon arrival the following morning.

- (8) On February 4, 2014, after reviewing client file and reviewing documents that Mr. Hall had uploaded to his case management software, I noticed several items I had not received, but had been sent by counsel for the Defendants according to ECF. According to ECF, each of these filings listed me on the *Certificate of Service*, but I did not receive them. The items I did not receive were the Defendants' *Notice of Service of Discovery* [Docket No: 22], all associated discovery requests (*Defendants' First Set of Interrogatories*, *Defendants' Requests for Production*, and *Defendants' First Requests for Admissions*), an *Entry of Appearance* [Docket Entry No: 30] of the Honorable Andrew Tominello and *Notice of Issuance* [Docket Entry No: 31].
- (9) I have searched throughout my office and have been unable to locate the documents referenced above in paragraph 8. My mail is delivered to a U.S. postage box located at my office. It is my firm's policy that mail is only opened by the person to whom the mail is addressed.
- (10) I had received other mailings prior to not receiving the items listed in Paragraph 8 from counsel for the Defendants and have also received several items since February 4, 2014. I do not believe this to be an intentional act, but believe that either the items were not mailed out or somehow were mishandled by the postal service.
- (11) In order to be more accommodating and to better facilitate communication, I submitted an ECF Account Registration form on Wednesday, February 12, 2014, at 15:44 CST and now should receive all matters associated with this case through ECF.

  
J. Michael Duncan

SWORN TO AND SUBSCRIBED BEFORE ME, on this the 12th day of February, 2014.

My Commission expires:



  
Notary Public

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